

### REMARKS

Claims 1 and 3-23 are pending in the application. In an Office Action mailed September 21, 2005, Claims 1 and 3-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Winterowd (U.S. Pat. No. 5,993,534) in view of Winterowd (U.S. Pat. No. 6,489,037).

By the present Amendment, Applicants amended Claims 1, 14 and 20. In view of the above claim amendments and the remarks that follow, Applicants respectfully submit that Claims 1 and 3-23 are patentable over the cited references of record, whether taken individually or in hypothetical combination.

#### Rejections Under 35 U.S.C. § 103(a)

Claims 1 and 3-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Winterowd (U.S. Pat. No. 5,993,534) in view of Winterowd (U.S. Pat. No. 6,489,037).

Claims 1, 14 and 20 each include a composition having a copper glycine complex present in an amount from about 5 to about 20 percent by weight based on the total weight of the composition; magnesium hydroxide; and a carrier. These claims have been amended to define the composition as a non-drying composition. Applicants assert that at least this limitation is not taught by the references, either singly or in combination. The '534 patent, in the Abstract, states "Wood-based products, to which an overlay material is attached, are pretreated with an aqueous suspension of alkaline, inorganic, multivalent compound such as magnesium hydroxide and a binding agent and then allowed to dry [emphasis added] fixing the antistaining compound on the surface of the wood member". The '037 patent, in the first line of the Detailed Description, states "The present invention relates to a set of coating formulations that can be applied to a wooden underlayment panel and dried [emphasis added] to yield a product that is fully compatible with aqueous latex adhesives that are typically used to adhere vinyl floor sheathing to wooden underlayment panels". Accordingly, Applicants assert that no teaching or suggestion exists in the references, taken either singly or in combination, to motivate one of ordinary skill in the art to arrive at the invention defined in Claims 1, 14 and 20. Accordingly, the rejection of Claims 1, 14 and 20 under 35 U.S.C. § 103(a) has been overcome. Notice to that effect is requested.

Claims 3-13 depend from Claim 1; Claims 15-19 depend from Claim 14; and Claims 21-23 depend from Claim 20. Applicants respectfully submit that these dependent claims are also allowable for the reasons discussed above as they set forth further limitations of their base claims. Notice to that effect is requested.

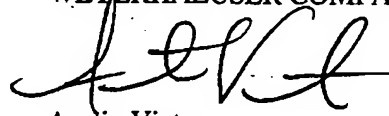
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**CONCLUSION**

In light of the foregoing amendments and remarks, Applicants respectfully submit that the present application is in condition for allowance. Applicants respectfully request entry, reconsideration, and allowance of all claims. The Examiner is invited to telephone the undersigned if there are any remaining issues.

RESPECTFULLY SUBMITTED,  
WEYERHAEUSER COMPANY



Austin Victor  
Registration No. 47,154  
Direct Dial No. 253-924-3839